Mallin Bros. Co. and Allied Products Division, Midwest Joint Board, International Leather Goods, Plastics & Novelty Workers Union, AFL-CIO, Petitioner. Case 17-RC-9361

May 20, 1982

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

By Chairman Van de Water and Members Jenkins and Hunter

Pursuant to authority granted it by the National Labor Relations Board under Section 3(b) of the National Labor Relations Act, as amended, a three-member panel has considered the objection to an election held on November 25, 1981, and the Regional Director's report recommending disposition of same. The Board has reviewed the record in light of the exceptions and brief, and hereby adopts the Regional Director's findings and recommendations only to the extent consistent herewith.

At issue is a ballot which is blank on its face, but contains the word "NO" written on its back. In his report, the Regional Director, relying on then current Board law,² recommended that the ballot be considered a void ballot. The Board has since enunciated a new position on such ballots in *Hydro Conduit*.³ Thus, the Board now, consistent with its

policy of considering voter intent expressed irregularly on the front of a ballot, also gives effect to the intent of the voter if such intent is manifested on the back of the ballot. The voter here expressed his intent to vote against representation by the Petitioner by writing "No" on the back of the ballot. Therefore, we find that the ballot was not void, and we shall count it as a vote against the Petitioner. A second revised tally of ballots will show that 8 ballots were cast for and 8 cast against the Petitioner. There are no void ballots. Accordingly, we shall certify the results of the election.

CERTIFICATION OF RESULTS OF ELECTION

It is hereby certified that a majority of the valid ballots have not been cast for Allied Products Division, Midwest Joint Board, International Leather Goods, Plastics & Novelty Workers Union, AFL-CIO, and that said labor organization is not the exclusive representative of all the employees in the unit herein involved, within the meaning of Section 9(a) of the National Labor Relations Act, as amended.

MEMBER JENKINS, dissenting:

I continue to adhere to the Board's longstanding policy of invalidating ballots marked solely on the reverse side of the ballot. See my dissent in *Hydro Conduit Corporation*, 260 NLRB 1352 (1982). Accordingly, I would adopt the Regional Director's recommendation that the ballot in question be considered a void ballot.

¹ The election was conducted pursuant to a Stipulation for Certification Upon Consent Election. The revised tally was: 8 for, and 7 against, the Petitioner, with 1 void ballot, the subject of the objection herein.

² Manhattan Corporation, Manhattan Guest House, Inc., 240 NLRB 272 (1979); Staco, Inc., 234 NLRB 593 (1978).

³ Hydro Conduit Corporation, 260 NLRB 1352 (1982).